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margarine as a police regulation in protection of health, even though it was shown that oleomargarine was a healthful food. Judge Dillon's criticism of the case is very severe, declaring such a decision enough to make one's blood tingle. *Dillon Mun. Cor.*, p. 211 n. However, the better rule is set forth in a number of well considered cases discussed in the case of *Minn. v. Barber*, 136 U. S. 313. In this case an act providing for the inspection of cattle, sheep, etc., before killing was declared void as an unreasonable police regulation interfering with interstate commerce, the court making special inquiry into the reasonableness of the regulation. The weight of authority seems clearly to support the proposition that every citizen of the United States has a right to export his goods into a sister State, unless it interferes with *proper* police regulations of such State, without regard to what that State may consider a proper regulation.

Hence, in the present case, even though the Texas officials act bona fide and in the exercise of discretion, still, it seems, if the regulation be unreasonable, the New Orleans merchants might file a non-demurrable bill, alleging these facts, as the regulation must be subjected to a test of reasonableness by the court, and not determined by the bona fide exercise of State officials' discretion.

Justice Brown, in his concurring opinion, also suggests that the State of Louisiana might maintain such a bill were the embargo against the products from the entire State.

"SURVIVAL ACTS"—INSTANTANEOUS DEATH—AMOUNT OF DAMAGES.

In the case of *Broughel v. Southern New England Telephone Company*, 45 Atl. Rep. 435, the Supreme Court of Connecticut has established the doctrine that instantaneous death does not prevent the personal representative of the deceased from recovering substantial damages for his intestate's death occurring through defendant's negligence. The Connecticut statute belongs to that class of acts which have been called "survival acts," *i. e.*, acts providing that decedent's cause of action shall survive to the administrator or beneficiaries as distinct from those acts which create a new right of action to the beneficiaries for their loss. Under the latter class of actions, of course, the period within which death results cannot affect the cause of action, but under the "survival acts" Massachusetts and Mississippi hold that no recovery can be had where death is instantaneous, as there is no cause of action to survive an instantaneous death. This objection could be of no weight in Connecticut, as the statute was amended so that the cause of action

should survive whether death was instantaneous or not, or, in other words, so that the administrator could recover at least nominal damages, even where no damage could be proved. Under the "survival acts" it has generally been held that the administrator could recover only the damages the decedent could have recovered on account of his sufferings, but in this case, although the trial judge found, as a matter of fact, that "death was instantaneous, and he suffered no pain or sensation, and never regained consciousness," and therefore awarded nominal damages, the judgment is set aside and a new trial granted for ascertaining and assessing the quantum of damages. The upper court shows conclusively that under the Connecticut statute the cause of action survives even where death is instantaneous, and the general approval with which this has been received by the press, shows in how close touch the bench is with the best public opinion.